

STATE OF SOUTH CAROLINA

## (Caption of Case)

Application of Carolina Water Service, Inc. for approval of an expansion of its existing sewer service area to include certain portions of Lexington County adjacent to its Watergate Service Area pursuant to contract with Harrison Development and approval of a bulk sewage treatment and service area agreement with the Town of Lexington.

BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

## COVER SHEET

DOCKET  
NUMBER: 2007 - 280 - S

(Please type or print)

Submitted by: John M.S. Hoefer

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NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

## DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition☐ Request for item to be placed on Commission's Agenda expeditiously☐ Other: \_\_\_\_\_

| INDUSTRY (Check one)                                 | NATURE OF ACTION (Check all that apply)            |  |  |
|--|--|--|--|
| <input type="checkbox"/> Electric                    | <input type="checkbox"/> Affidavit                 | <input checked="" type="checkbox"/> Letter                 | <input type="checkbox"/> Request                   |
| <input type="checkbox"/> Electric/Gas                | <input type="checkbox"/> Agreement                 | <input type="checkbox"/> Memorandum                        | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Electric/Telecommunications | <input type="checkbox"/> Answer                    | <input type="checkbox"/> Motion                            | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Electric/Water              | <input type="checkbox"/> Appellate Review          | <input type="checkbox"/> Objection                         | <input type="checkbox"/> Resale Agreement          |
| <input type="checkbox"/> Electric/Water/Telecom.     | <input type="checkbox"/> Application               | <input type="checkbox"/> Petition                          | <input type="checkbox"/> Resale Amendment          |
| <input type="checkbox"/> Electric/Water/Sewer        | <input type="checkbox"/> Brief                     | <input type="checkbox"/> Petition for Reconsideration      | <input type="checkbox"/> Reservation Letter        |
| <input type="checkbox"/> Gas                         | <input type="checkbox"/> Certificate               | <input type="checkbox"/> Petition for Rulemaking           | <input type="checkbox"/> Response                  |
| <input type="checkbox"/> Railroad                    | <input type="checkbox"/> Comments                  | <input type="checkbox"/> Petition for Rule to Show Cause   | <input type="checkbox"/> Response to Discovery     |
| <input checked="" type="checkbox"/> Sewer            | <input type="checkbox"/> Complaint                 | <input type="checkbox"/> Petition to Intervene             | <input type="checkbox"/> Return to Petition        |
| <input type="checkbox"/> Telecommunications          | <input type="checkbox"/> Consent Order             | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation               |
| <input type="checkbox"/> Transportation              | <input type="checkbox"/> Discovery                 | <input type="checkbox"/> Prefiled Testimony                | <input type="checkbox"/> Subpoena                  |
| <input type="checkbox"/> Water                       | <input type="checkbox"/> Exhibit                   | <input type="checkbox"/> Promotion                         | <input type="checkbox"/> Tariff                    |
| <input type="checkbox"/> Water/Sewer                 | <input type="checkbox"/> Expedited Consideration   | <input type="checkbox"/> Proposed Order                    | <input type="checkbox"/> Other: _____              |
| <input type="checkbox"/> Administrative Matter       | <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest                           |  |
| <input type="checkbox"/> Other: _____                | <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit             |  |
|  | <input type="checkbox"/> Late-Filed Exhibit        | <input type="checkbox"/> Report                            |  |

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Posted: lodDept: SADate: 10/3/07Time: 9:50

**WILLOUGHBY & HOEFER, P.A.**

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TRACEY C. GREEN  
SPECIAL COUNSEL

October 2, 2007

**VIA HAND DELIVERY**

The Honorable Charles L.A. Terreni  
Chief Clerk / Administrator  
Public Service Commission of South Carolina  
101 Executive Center Drive, Suite 100  
Columbia, South Carolina 29210-8411

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2007 OCT -2 PM 4:36  
SC PUBLIC SERVICE  
COMMISSION

RE: Application of Carolina Water Service, Inc.; Docket No. 2007-280-S

Dear Mr. Terreni:

I am writing to respond to the September 26, 2007, letter to you from Representative Ted Pitts regarding the above-captioned matter. I appreciate very much your providing me with an opportunity to do so prior to tomorrow's Commission Supplemental Agenda meeting.

Permit me to preface the substantive portion of this letter by stating that Carolina Water Service, Inc. ("CWS") certainly respects Representative Pitts' views and recognizes that he is writing to the Commission in his capacity as an elected representative of citizens in Lexington County. CWS is compelled to respond, however, because it has a contractual obligation to the developer and the Town of Lexington to seek Commission approval of the contracts subject of the application based upon the law and facts.

In regard to Representative Pitts' request to be heard in opposition to the application, CWS respectfully objects on the ground that Representative Pitts has no standing in this matter. He is neither a party of record in the matter, nor a customer of CWS, nor a legal representative of any person or entity that could have become a party of record in the matter. Given these facts, consideration of his request by the Commission would violate both S.C. Const. art. I, § 8 and art. I, § 22.

Furthermore, there is no basis for a hearing to be set in this matter inasmuch as no party of record has raised any issue which would require a hearing. As you are aware, the return date in this matter has expired and no petition to intervene or protest has been filed. Nor has any petition to intervene out of time been filed. Furthermore, the Office of Regulatory Staff has not

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objected to the application or requested that any hearing be held. CWS therefore objects to any hearing being set.

Unfortunately, CWS must respectfully disagree with some of the principal factual assertions and underlying assumptions of Representative Pitts' letter. For example, the Water Quality Management Plan adopted by the Central Midlands Council of Governments under Section 208 of the Federal Clean Water Act ("208 Plan") does not show any part of the proposed subdivision as being in the Town of Lexington's **service** area; rather, it shows all of it being in the Town of Lexington's **designated management agency** area. As a designated management agent, the Town is authorized to determine how wastewater flow in its area will be handled. The 208 Plan also shows that approximately 10% of the proposed subdivision is already in CWS's PSC approved service area, as is reflected in the revised Schedule 2 filed by the Applicant on April 15, 2007. And, there are other portions of the Town of Lexington's management area which are served by CWS.

The contention that customers in the proposed development "will be subjected to higher rates" as a result of the contract between CWS and the Town is speculative. CWS would also note that the collection rates proposed in the application are rates already determined by the Commission and are therefore deemed just and reasonable as a matter of law. Moreover, the entirety of the proposed subdivision, as well as the balance of the area for which expansion is sought, is outside the Town's corporate limits. Therefore, customers in that area would be subject to the Town's "out-of-town" rates. And, as you are aware, there is no regulation of municipal rates. Finally, any person who decides to construct a residence in the proposed development will be making a conscious decision to utilize the collection services of CWS and will become entitled to all of the protections afforded customers under law – including the right to petition the Commission for relief if circumstances warrant. Thus, concern over the protection of potential future customers is not a basis upon which to conduct a hearing or deny the application.

Finally, the Town has made a decision to enter into this contract with CWS in the exercise of its discretion. In the exercise of this discretion, the Town has chosen not to construct utility collection only facilities to this area which is outside of the Town's municipal limits and instead has chosen to provide only transportation service. CWS is unaware of any legal authority for the proposition that a third party's disagreement with the Town's discretionary action can form the basis for preventing the Town from giving effect to its decision.

In conclusion, CWS respectfully requests that the request for a hearing be denied and that the application be approved based upon the written documentation previously submitted.

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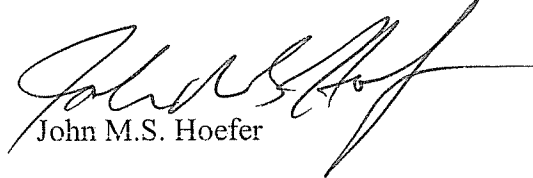
The Honorable Charles L.A. Terreni  
October 2, 2007  
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If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am

Respectfully,

**WILLOUGHBY & HOEFER, P.A.**



John M.S. Hoefer

JMSH/twb

cc: Honorable Randy Halfacre  
Honorable Edward H. "Ted" Pitts, Jr.  
Shannon B. Hudson, Esquire  
Bradford T. Cunningham, Esquire